

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.13 OF 1991

Sunil Bhalchandra Bagade.
Appellant

V/s.

1. M/s.Kirloskar Brothers Ltd. & anr.
Respondents

Mr.T.J. Mendon for Appellant.

None for Respondents.

CORAM : SMT. ROSHAN DALVI, J.

DATED : 21st June , 2007

ORAL JUDGMENT :

1. The Appellant has challenged the compensation granted by the learned Member, Motor Accidents Claim Tribunal, Thane, in the impugned judgment and order dated 29th September 1989.
2. The issue in the Appeal is, therefore, extremely narrow.
The Appellant has been granted Rs.30,003.00,

rounded off Rs.30,000/- as the total compensation under the Motor Vehicles Act. The Appellant met with an accident on 2.3.1986. He claimed Rs.1,50,000/- as compensation for the injuries sustained by him from the owner of the vehicle and the Insurance Company.

3. The Appellant suffered a fracture of tibia-fibula and fracture of mandible. He was treated as an indoor patient from 2.3.1986 till 12.3.1986 and thereafter as an outdoor patient until 25.6.1986. He incurred expenses of hospitalization charges towards his treatment. For the injury to his mandible, his work is not affected. For the injury to his tibia, his work gets affected. He was working as a Machinist grinder. His evidence shows that he had to stand near the machine for 8 hours. He could not continue that work. His Company gave him light work. He was earning Rs.925/- per month by way of daily wages – Friday being a holiday, he was not paid. There is no evidence to show that for light work his wages were reduced.

4. The Appellant did not work from the date of the accident for a period of 5 months. Thereafter, he re-joined his duty and was given light work.
5. The Appellant has produced medical bills at Exhibit-14. Those are produced in Appeal. The total of the medical bills comes to Rs.1188/- . He has claimed Rs.7,000/- . He has been granted Rs.1188/- .
6. His evidence shows that he incurred an expense of Rs.80/- in rickshaw, which he took 8 times for treatment. That entire conveyance charge has been granted. The salary for the period of 5 months that he was not paid, has been granted.
7. The Appellant claims that he had to take special diet of milk and chicken soup and for that he claimed Rs.3,500/- . This claim has been without particulars. He has been granted Rs.1,500/- for such expenses.
8. His main claim is for the injuries suffered by him and hospitalization charges. For that, upon his claim of Rs.1,50,000/- , he has examined the doctor who

treated him. The doctor operated him for fixation of his fractured tibia and his fractured mandible. The evidence of the doctor shows thus : “He is alright, but he has little weakness in the leg and pain on walking or standing for long time. The percentage of permanent disability is 17.” Upon such percentage of permanent disability, he has been granted a compensation of Rs.20,000/- .

9. For his hospital charges, the doctor has deposed that he had issued a bill of Rs.100/- on 10.5.1986, which was paid to him. Thereafter he issued a bill of Rs.2510/- , which amount is already received by him. Based on that evidence, the exact sum of Rs.2610/- towards hospital charges has been granted by the learned Member of the MACT, Thane.
10. The consideration of the evidence of the Appellant as well as his doctor is full and complete. Upon the extent of the permanent disability of 17%, the compensation of Rs.20,000/- is just and proper. It must be borne in

mind that thereafter he had only weakness in the leg and pain. He was given an alternative light job. He has not shown that there was any reduction in wages. He has been paid the amount and salary for the period of time that he could not attend his duty. He has been paid the entire conveyance charges which are found from his evidence. He has also been paid towards medicine and special diet. There is absolutely no error in the judgment and order of the learned Member of the MACT. The Appeal is dismissed.

(SMT. ROSHAN DALVI, J.)